EXHIBIT N

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

IN RE: GENERAL MOTORS LLC
IGNITION SWITCH LITIGATION,

14 MD 2543 (JMF)

----------x

New York, N.Y.
August 11, 2017
9:00 a.m.

Before:

HON. JESSE M. FURMAN,

District Judge

APPEARANCES

LIEFF CABRASER HEIMANN AND BERNSTEIN LLP
BY: ELIZABETH JOAN CABRASER
-AND-
HAGENS BERMAN SOBOL SHAPIRO LLP (SEATTLE)
BY: STEVE W. BERMAN
-AND-
HILLIARD MUNOZ GONZALES LLP
BY: ROBERT HILLIARD
-AND-
BROWN RUDNICK
BY: HOWARD STEEL
Attorneys for Plaintiffs

KIRKLAND & ELLIS LLP
BY: RICHARD CARTIER GODFREY
ROBERT C. BROCK
ANDREW B. BLOOMER
ALLAN PIXTON
-AND-
KING & SPALDING
BY: ARTHUR J. STEINBERG
Attorneys for Defendant General Motors L.L.C.

THE COURT: Good morning. We are here in the GM MDL matter.

Counsel, why don't you just state your names for the record.

MS. CABRASER: Good morning, your Honor. Elizabeth Cabraser for plaintiffs.

MR. BERMAN: Good morning, your Honor. Steve Berman for plaintiffs.

MR. HILLIARD: Good morning, Judge. Bob Hilliard for plaintiffs.

MR. BERMAN: Your Honor, we also have at our table our bankruptcy counsel on the economic loss side, Mr. Steel, Howard Steel.

MR. STEEL: Good morning, your Honor.

THE COURT: Good morning.

MR. GODFREY: Good morning, your Honor. Rick Godfrey from New GM. We also have New GM's bankruptcy counsel with us, Arthur Steinberg; my colleague, Mr. Bloomer; Mr. Brock; and Mr. Pixton, who once again is at the front table, your Honor.

THE COURT: Thanks for being here earlier than our usual start time. I think Ms. Kumara may have told you I need to get out of here pretty promptly today. I have a medical situation I need to attend to. As you can see, Ms. Smallman is out. So Ms. Kumara is out front. Just a reminder to speak into the microphones loud and clear, and we will proceed with

the agenda.

I don't know if the presence of bankruptcy counsel suggests that there is more to discuss on the bankruptcy front than I thought there might be. You're getting me nervous. Let's start with the bankruptcy proceedings.

The letters I received from both parties suggested that there wasn't much to talk about with respect to the July 12 bankruptcy ruling at this point, that there may be down the road. I don't know if that's changed or what have you.

I confess I don't quite have a full grasp of what the implications of that ruling are for the cases that are pending before me, but I assume that will sort of flush itself out over time.

I am curious what remains to be litigated in the bankruptcy Court. I think all but the late claims issue have been resolved, at least of the threshold issues, but the word "threshold" suggests that there is more to be done there, and I'm sure there is. So I would love some sense of that.

The last question is the letters, including the agenda letter, have noted any number of appeals that have been filed from the bankruptcy court's rulings, and I didn't know where those appeals were filed or headed, which is another way of saying I don't know if they're coming to me or if I should be on the look out for them. I'm not eager to get more work on my plate. I have enough from you guys, but that being said, I

don't know if there is something that I should be on the look out for.

So I guess that's all just by way of saying if somebody can help me out and help me understand what's going on and what I should be expecting, that would be helpful. I don't know if Mr. Steel or Mr. Steinberg are the right folks or counsel here. Make sure you get a microphone though, please.

MR. STEEL: Good morning, your Honor. Howard Steel of Brown Rudnick.

With respect to the 2016 threshold issues, Judge Glenn has issued opinions on all of the 2016 threshold issues.

THE COURT: Other than the late claims issue.

MR. STEEL: Other than the late claims issue. I'll address that in a second.

There have been numerous appeals of the 2016 threshold issue opinions. Lead counsel for the economic loss plaintiffs, personal injury plaintiffs, and certain other plaintiffs have filed notices of appeal. General Motors has also filed a notice of appeal. Those recently statements of issue on appeal and designation of records have been filed.

THE COURT: In what court?

MR. STEEL: In the bankruptcy court.

THE COURT: Where is the appeal being taken? In this court, or is it the Second Circuit?

MR. STEEL: To the district court. Certain plaintiffs

have filed related case statements seeking to have it heard with your Honor.

THE COURT: When did that happen? I haven't seen those.

MR. STEEL: They were filed within the last week. We can send copies if your Honor desires.

THE COURT: That would probably be helpful, if only because it would alert me to what the docket numbers of those appeals are, I would think.

Do they have docket numbers in this court yet?

MR. STEEL: I'm not aware that any of them have docket numbers yet.

THE COURT: I think better to have the information than not, and I can then look into where those things are if they were supposed to come to me, but I have not yet seen them.

So how many of those are we looking at?

MR. STEEL: I'm looking at Mr. Steinberg. I think there are four or five.

MR. STEINBERG: Good morning, your Honor. Arthur Steinberg.

The paperwork for the designation of record and statement of issues was filed two days ago. So the paperwork itself hasn't gone from the clerk of the bankruptcy court up to the district court yet.

The appeals that were filed by the plaintiffs' side

were with regard to the July 12, 2017, order entered by the bankruptcy court. New GM appealed a June order of the court and a separate July order of the court.

THE COURT: The June order was the Pitterman?

MR. STEINBERG: The Pitterman. Correct, your Honor. The cover sheets that we filed -- I don't know what the plaintiffs are, but I assume the same -- said the two appeals that were filed are connected with each other, should be heard by the same judge, and we referenced those appeals as being related to the MDL.

So we would expect it ultimately to come to your Honor, but the paperwork hasn't emerged from the bankruptcy court to the district court yet.

THE COURT: So it doesn't sound like it should yet be on my radar or that I should have received the related case statements, but I will be on the lookout for them. If you could send them to chambers just so I can have whatever information I can have, that would be helpful.

MR. GODFREY: Your Honor, would you prefer a letter, just a cover letter, with the basic information on this from both parties? We can do that, if that would be helpful to the Court.

THE COURT: Sure. Why don't you do that. On the one hand, the sooner the better. On the other hand, it doesn't need to be filed today. I won't give you a deadline, but the

sooner the better.

Very good. Anything else to say on that front?

MR. STEEL: Nothing right now, your Honor.

THE COURT: I'm mindful that I already have a few bankruptcy appeals to resolve relating to this, and they are on my to-do list. So I guess that list just got longer.

The next items are coordination of related actions, document production, and deposition updates.

Is there anything to discuss on those three?

MR. GODFREY: Just one point, your Honor. Just a note for the Court. The last time we were here in July, I had noted that the Orange County trial was set to start on August 14, which is this coming Monday. That has been continued at the request of the parties until October 23.

I want to make sure the Court was aware of that since I had alerted the Court that there was a possibility of some issues coming up that the Court might be interested in, but that's two months down the road now. So nothing to worry about at the current time.

THE COURT: Thank you. I saw that in the July 31 related case update. That timing is better for my purposes, since I'll be in the country at that time preparing for the next trial here. Good to know.

Let's turn then to what may be the biggest ticket item today, which is the economic loss motion practice and

discovery-related issues. I don't know if intervening events, that is, between your letters and today, have changed anything as far as you're concerned, the big intervening event being my granting of the motion for reconsideration that was filed by plaintiffs.

Let me give you my thoughts, unless you have anything you need to add before I give you my thoughts. Good.

So first let me start with the areas of agreement. It seems like you're in agreement that discovery should not proceed at this time with respect to the FACC plaintiffs whose claims have been dismissed, and I'm in agreement with that as well.

Second, on the issue of summary judgment motions, I want to understand a little better what the proposal and idea here is. As I understand it, New GM is proposing to file a summary judgment motion sooner rather than later but limited to the issue of benefit of the bargain damages. The idea would be to bring a summary judgment motion on all other issues down the road as to some or all states depending on my resolution of that.

Mr. Godfrey is nodding his head.

MR. GODFREY: Yes, your Honor. The centrality of the plaintiffs' case has shifted to the major contours of elements of the benefit of the bargain. That is a discreet legal issue that the Court's guidance and ruling on will materially

expedite and define the case going forward, including whether there can possibly be a class.

We have views on what "benefit of bargain" means in various states. I'm sure the plaintiffs would disagree with some of those views, maybe all of them. The Court will have to decide that.

That issue, given the allegations with respect to the 16 states that the Court has already ruled upon, has become a central question, the contours and outcome of which will be very significant in terms of a class briefing.

We think it's helpful for the Court, indeed necessary for the Court, to have a firm understanding of the differences in state law, what the state law provides and doesn't provide, and the meaning of that catch phrase "benefit of the bargain" before we embark upon the class certification because it will dictate, in many respects, how the Court views certain of the class issues.

THE COURT: I put a lot of trust in you guys in determining how to proceed and what makes sense and doesn't. So I'm inclined to accept the proposal.

I've written something in the neighborhood of 240 pages on the laws of 16 states already and addressed the issues of benefit of the bargain. I don't know what evidence has come to light in discovery that would have meaning for you to sort of shed light on this issue in a summary judgment motion or

what the story is.

This is partially because I'm, in general, not a fan of piecemeal motion practice. I obviously have made some exceptions here for reasons of practicality and otherwise.

The idea of having a substantial motion this fall followed by another one at some point down the line isn't particularly attractive to me. So I'm just trying to get a better sense of what light could be shed that would be helpful in terms of the class certification or settlement or otherwise.

MR. GODFREY: We thought hard about this before proposing it. So this was not a late-night thought to burden the Court. The Court has accepted the notion advanced by plaintiffs that they have benefit of the bargain, that they can make a claim for benefit of the bargain damages. The question then becomes what is the nature and element of that definition. What is benefit of the bargain damages. What is the type of evidence.

From the depositions, we think that the plaintiffs, the representative plaintiffs, don't have it, but we also think that it would be very illusory for the Court to understand precisely what benefit of the bargain means and does not mean as compared to the label that has thus far been applied.

This is similar to what happens in a lot of mass tort cases where the Court will identify, for example, a particular causation issue and have a separate summary judgment tract on

that particular issue because it can materially advance or materially inform the parties. So it's very analogous to what is quite common in MDLs involving mass torts of a different type.

So, from our perspective, we know what the deposition discovery has shown. We believe we know what the law is. The Court may or may not agree with us on that. We think that the law and the plaintiffs' claims do not mesh, but we also think there are some overarching principles that if the Court agrees with us, that means certain things for class certification.

If the Court disagrees with us, it will mean different things for class certification. It may be equally helpful from our perspective, but we don't know until the Court actually rules.

Otherwise, we are briefing class certification where there is a central theory of recovery and a central theory of measurement of the damages which is undefined for the Court and undefined by the contours of the record thus far.

Therefore, we've analogized this to a classic causation issue in certain types of mass tort, particularly Big Pharma cases, for example.

THE COURT: Do you anticipate that it would need to engage in a state-by-state analysis of each of the 16 states? Or could this be done at a level of generality that doesn't require that? Or is this some sort of grouping that could be

done where the parties, perhaps even in advance, agree to different approaches to this and put the states in each of those buckets?

MR. GODFREY: We have not discussed this with the plaintiffs, at least I haven't. Maybe Mr. Bloomer has. Our contemplation was an omnibus motion but with the law from the 16 states that your Honor has addressed.

I don't think it will be materially different for certain other states. I didn't want to complicate this more than it might otherwise be. So it was an omnibus motion.

If there were particular state differences, we would draw those out individually. But from our reading of the law, we think that there are common elements that will drive the decision-making analysis of the Court that are overarching for the 16 states on this particular issue.

There may be some differences. As to those, we would brief those separately with a subset. So it is somewhat akin to -- I hate to say this because we lost this motion, but it's somewhat akin to the consequential damages issue where we had an omnibus motion, and then we had as a fallback where there were some individual state differences, and the Court did not agree with us on the omnibus motion up until now but then gave us the Court's views in terms of what to look for in individual states, which was very, very helpful.

So that is how we envisioned it. We did not envision

that we would have a brief that says the law of Alabama is X. The law of New York is Y. The law of Missouri is Z.

We envisioned it as here are the principles that the courts follow when applying all of the states, and if there is a difference in a particular state, then we would identify that that says this particular state has the following additional two elements or the following element to the claim.

So, from our perspective, we, frankly, focused on this in connection with another case we're involved in where we were discussing an overarching causation issue. We thought we have the same issue here, but it's on benefit of the bargain damages.

Mr. Bloomer and I had a case on this years ago on a damages issue similarly where we focused on the damages question, and it became the determinative factor in the court's analysis on class certification.

THE COURT: Let me hear from someone at the front table.

Mr. Berman, is that you?

MR. BERMAN: That's me, your Honor.

THE COURT: Just get a microphone, if you can.

MR. BERMAN: You said you were relying on the wisdom of the parties in coming up with this procedure.

THE COURT: I get the sense it's more the parties at the back table in this instance.

MR. BERMAN: Exactly. I've heard Mr. Godfrey and Mr. Bloomer explain it. I still don't understand exactly the basis of the motion because you've already ruled in certain states that benefit of the bargain damages are permissible.

Having said that, we didn't see a mechanism over the rules where we can stop GM from moving for summary judgment at any time they want to. They apparently want to do it now.

So, unless the Court stops them and says, I only want to do summary judgments once, not piecemeal, which is what they're proposing, then we went along with the schedule with the caveat that -- New GM seems to think that they've got this magic bullet, but they want until December to file the brief. If they've got the magic bullet and they've thought it out, let's get it on the table like next week or something way sooner than December.

THE COURT: I hear you that it's coming more from the back table than yours, and I certainly do think I have the authority to say we're only going to have one round of summary judgment briefing here and it won't be until X.

I will adopt the proposal and allow New GM to file its motion on this front. I'll adjust the scheduling in a few minutes when we turn to issues where you don't agree, but you'll find that I'm a little more in agreement with the plaintiffs on that front, that we should get things moving more quickly than New GM proposed.

The last point of agreement is that you will meet and confer regarding essentially application of my two prior motion to dismiss opinions to the 35 remaining states in an effort to hopefully obviate the need for further motion practice, and perhaps you could essentially resolve how the motions or the decisions apply to those states.

I think that's optimistic. I imagine there will be some points of disagreement, but as I understand it, you'll meet and confer by December 1 and submit something to me, either an agreed-upon proposal or some sort of competing proposals, by December 15.

So I'll look for that. That's fine with me. I would just ask you to please confer in good faith and to be reasonable. In my experience, as you've probably seen, I think in most of these jurisdictions you can find an outlier case or two that say the opposite of what the weight of authority in that state seems to say.

In that regard, I think in almost every one of these issues in every one of these states, there is authority that both parties can hang their hats on.

As you've seen, I tend to go with the majority approach or the weight of the authority. So I guess I'm just saying that recognizing that you can probably make an argument -- you're good lawyers. You can make an argument for anything.

Just pick your battles, and hopefully we can minimize the amount of briefing that we need to do on the remaining 35 states, but obviously we'll see where that goes.

Now let's turn to the issues upon which you don't agree. First is the one that Mr. Berman referred to a moment ago, which is the briefing schedule for this first summary judgment motion.

As I understand it, Mr. Berman mentioned a December date. As I understood it, the competing proposals at this point were only separated by two weeks, namely September 29 and October 13. Mr. Bloomer is nodding his head. So I'm assuming that's correct.

My proposal is to sort of split the difference and take a little bit of time away so that it is still fully submitted by the time that the plaintiffs have proposed.

On my proposal, I would have the motion due by October 6, any opposition due by October 30, and then any reply due by November 10, which is the date that the plaintiffs have proposed. I think that may be a court holiday, but I think I would still have it due on that date notwithstanding that since you can file on ECF.

That splits the difference and gives New GM an extra week. On the other hand, it gets the motion fully submitted by the date the plaintiffs have proposed.

Any objections?

MR. GODFREY: We're okay with that, your Honor. Thank you.

MR. BERMAN: I guess my only concern is New GM has been preparing this for quite a while, and it's August. So you're giving them another 45 days to get it ready. You're giving us 24 days to respond. Maybe give us an extra week.

THE COURT: I was trying to --

MR. BERMAN: I hear you.

THE COURT: -- give you something that you were asking for. On your proposal, they would have had until the end of September anyway. So it's only seven days beyond what you have contemplated.

MR. BERMAN: So how about if we get an three extra days?

THE COURT: So you would get until November 2?

MR. BERMAN: Correct.

THE COURT: That's fine with me. We'll leave the reply deadline as November 10, but I'll give plaintiffs until November 2, which I think is the date we're starting the Doddson trial, to file their opposition.

The second issue is the question of proposed amendments to the 4th amended consolidated complaint. I think one of the biggest issues you're going to have to address is what to call the next complaint because fifth starts with the same letter as fourth. I don't know if you have any thoughts

on that. We've been pondering that.

MS. CABRASER: Maybe the best amended consolidated complaint.

THE COURT: Or maybe the last.

MS. CABRASER: That would be the lack, and we would not want them to be characterized as lacking anything.

THE COURT: Understood. You can ponder what to call it between now and then.

Let me tell you my thoughts on this. I have to say that I share New GM's skepticism about the appropriateness of the proposed amendments, that is to say, I think the plaintiffs have a bit of an uphill fight to show that there is good cause, which I think is the relevant standard here.

Having said that, I don't see how I can categorically preclude the amount based on the current record and the parties' letters. New GM's arguments against allowing the amendment -- this is on page 7 of its letter, which is docket number 4338 -- are really fact dependent based on who knew what and when.

I don't know the answers to those questions, and I also imagine that the answers might differ as to some of the, say, proposed new plaintiffs versus others. So I don't really see how I can categorically preclude an amendment.

I think what may make more sense -- as you have heard, I'm not eager to invite more motion practice, but I think what

would make more sense would be to have the plaintiffs file their proposed amended complaint with essentially a motion for leave to amend, and we can then adjudicate it based on what the actual concrete proposals are and what showing they can make as to the proposed changes.

So that's a little different than I think either side had contemplated. Maybe not. The plaintiffs essentially made that argument in their letter but didn't exactly frame it as a motion for leave to amend. It was more just a yes or no. I guess what I'm saying is I don't see how I can say yes or no without knowing more.

Mr. Bloomer, it looks like you want to say something.

MR. BLOOMER: Thank you, your Honor. Andrew Bloomer on behalf of New GM.

If the Court grants leave to amend and then there is motion practice on that, I take it that the motion practice would encompass either the proprietary of adding the new plaintiffs and/or why their claims should be dismissed on the merits, which is what I think the plaintiffs had in their proposed schedule.

We objected to the addition of the plaintiffs but said regardless, since you're filling slots that have already been briefed, we want to reserve our client's right to move to dismiss them on the merits, and I just want to understand the scope of what would be contemplated in opposing a motion for

leave to amend.

THE COURT: I hadn't really thought it all through. I think you raise an interesting question. I was thinking that, yes. We would adjudicate the question of amendment, and then certainly you would have an opportunity to make your 12(b)(6)-type arguments with respect to any new plaintiffs. I don't know if there are new claims, but I think it's more new plaintiffs than anything else.

Having said that, what your comment points to is maybe these two things can and should be consolidated. Obviously futility is a factor in the leave-to-amend analysis. In that regard, the 12(b)(6) arguments can be made in the context of the leave-to-amend process, the only difference being really who files the opening brief.

In the normal case, of course, in a motion for leave to amend, the plaintiff would essentially file the opening brief and say why the amendment is not futile, and then you would have an opportunity to make your 12(b)(6) arguments in opposing, and then they would have the reply, as opposed to I think the way you guys had sort of proposed doing it, there would be an amendment followed by 12(b)(6) practice where GM would be the moving party and file the reply.

So I don't have a strong view either way, except that the most efficient way we can do this and the faster we can get it resolved I would think the better, particularly if we have a

summary judgment motion coming down the pike.

MS. CABRASER: Your Honor, we hadn't thought of that specifically, but we think that makes sense. Certainly it would be more efficient to combine those arguments.

We would be providing the plaintiffs' FACC sheets for the additional plaintiffs. There are ten or less of those. So the information would be in the proposed amended complaint. The FACC sheet would be there. We would be making our arguments in our motion to amend opening brief.

As you know, futility is an argument against amendment. So this would really be any attack on this pleading in terms of what is new or different in it, and then once we're past that, we either have the amended complaint in whole or in part or we don't, and we move on.

THE COURT: Mr. Bloomer.

MR. BLOOMER: I think both parties are trying to figure out a way, your Honor, to try to streamline the proceedings without kind of sacrificing rights, at least certainly from our perspective, our right to move to dismiss.

If the plaintiffs want to move for leave to amend and we raise an opposition that addresses both the leave and the 12(b)(6)-type arguments, to the extent we have them, I think we can accept that. I realize they'd get a reply. I think, depending on what happens, we may want to seek leave for a surreply just to kind of --

THE COURT: Get the last word?

MR. BLOOMER: Get the last word and keep in line with traditional motion practice on 12(b)(6).

THE COURT: I think we can probably wait and see if that proves to be necessary. I think this is probably the way to go, just thinking out loud. I think it probably means getting these things resolved even faster than you guys have proposed in your competing schedules. So why don't we plan on proceeding that way.

I have been, I think, fairly reasonable, more than aggressive, in granting requests to file surreplies because I have generally trusted you guys and your assessment that that is appropriate and necessary. So, if you think it is here, you can make an application, and I will consider it in the normal course.

I'll leave it to you to propose deadlines for that. I think if plaintiffs can still file the proposed amendments by August 25, that would be great. If they weren't contemplating doing that with a motion -- that may be ambitious, particularly if we're now essentially consolidating the sort of contemplated 12(b)(6) motion practice with a motion for leave to amend. It may be that we can still push that deadline back a bit and have that resolved quickly, if not more quickly than contemplated in your proposed schedules.

So can I leave it to you to confer and come up with a

proposed schedule?

MS. CABRASER: Yes, your Honor. We'll confer on that, and we'll come up with a schedule. It will be somewhat later than the August date, but I think it will end up being more expeditious.

THE COURT: Great. I trust that you will, again, be reasonable and proceed in good faith on the question of futility and that you're not going to make arguments that really amount to reconsideration of a decision that I've made in the first two motions that I've resolved, which is another way of saying that you can reserve your rights and the relevant footnotes as you regularly do, but I don't expect to see arguments that are really taking issue with rulings I've made.

It's one thing to make new arguments based on the specific allegations concerning those plaintiffs. It's another thing to reargue points that as far as I'm concerned, are settled. So I trust that you will hear me loud and clear on that front and not seek to re-litigate issues that I've already decided.

So I'll look for your proposal on that. If you can incorporate it into the proposed order memorializing what we're doing here today, great. If you need additional time, that's fine as well as far as I'm concerned, but I'll leave it to you and trust that you'll submit it to me as soon as you can.

That leaves the bigger issue of sort of the structure

of future motion practice. I did, number one, review other MDLs and some of the decisions cited in your letters, I think more plaintiffs' letter than New GM's letter, but I did review other MDLs and spoke to other MDL judges to get a sense of their experiences in these matters.

The bottom line is I do not intend to proceed in the manner that New GM is proposing, that is to say, as I understand it, briefing summary judgment and class certification as to all 51 sates and D.C.

As I indicated before, I'm not a big fan of piecemeal motion practice, but I think adopting that approach would really involve a significant delay before we even got to motion practice because of the need for discovery.

GM has made clear that it would take the position that it's entitled to take discovery of every plaintiff in every state that is subject to motion practice. I think it would be a while before we even got to motions. Frankly, what those motions would look like and what a ruling would require from me are things that I shudder to think about.

I think it makes a lot more sense, as I think I had intimated at the July conference, to adopt some sort of bellwether-type approach along the lines of what I think I suggested last month and what the plaintiffs have proposed, and that does seem to be the way that, if not most other MDLs of this sort facing similar issues have proceeded, but certainly

the way that many have with some success.

I think that a decision on essentially some number of the states that I have already addressed on the motions to dismiss would help inform the settlement discussions that I assume are either ongoing or would be ongoing. In any event, I think it's likely that we would be able to apply those decisions in some streamlined fashion to other states down the road.

So that's a long way of saying that I agree with the plaintiffs that some sort of bellwether approach is warranted here, which raises the question of sort of how to choose the bellwether states, if I can call them that. I include D.C. as a state, even though as every resident of D.C. would tell you, it is certainly not a state.

I am inclined to pick two to be agreed upon jointly by you, and I hope that you could agree jointly of the 16 that I have addressed sort of the two that would make the most sense, either from the perspective that the most plaintiffs are in those or they're most representative of the 51 states or at least the 16 states that I've resolved.

I just think that given the amount of briefing and the decisions you already have from me, that you guys could actually agree upon that. If you can't, I'm inclined to think that you should submit letter briefs to me, and then I'll decide.

This is not like the personal injury/wrongful death cases where I'm in the dark about the specifics of the cases and, therefore, not in a good position to choose. I obviously know quite a bit about the 16 states that we're choosing among.

So, if you can't agree, I think you can submit your views on which of those states we should adopt, and I could then make that decision. I would rather not have to do that, but I'm certainly prepared to do that, if necessary.

So my inclination is to say two and leave it to you to try and meet and confer and either submit something, an agreed-upon kind of schedule and protocol identifying those two states or competing proposals, and I'll then resolve things that you don't resolve.

I would say in the mix of that if in the course of talking about it, you guys decide, based on the particular facts of either the number of plaintiffs or the categories of state laws involved, if you think that a number other than two makes sense -- I'm not interested in 16, but if three or four would make more sense than two, I'm certainly open to that. As an opening bid, I would suggest two.

Mr. Berman.

MR. BERMAN: Your Honor, Ms. Cabraser and I were talking this morning, and coincidentally we came up with two as well. We bounced around four, five, six. It doesn't matter. We thought we could do one because that's going to guide a lot

of future thinking, but maybe there is a difference in law that might be helpful. So we came up with two.

We'll certainly try to agree with GM on which two. The only thing I think we need to do is then have a timetable for selection and more letter briefing on the issue.

THE COURT: Let me hear from the back table. If you guys sit down and talk and look at the particular states and decide that we could do this as to only one state -- and there are several MDLs that have done that, and I think that it has benefited the litigation even where it's been limited to one state and bellwether trials limited to one state or what have you -- I'm certainly open to that.

Two is sort of an abstract number. I guess what I'm intimating is the devil may be in the details. If it turns out that one can be as useful or three would be more useful, I'm certainly open to that. Again, two is the opening bid.

Mr. Bloomer, Mr. Godfrey.

MR. GODFREY: I think we would like to reflect upon it, your Honor. The last time I did this in this court, that is, the Southern District in front of Judge Scheindlin, we settled on four.

I don't recall whether that was agreed to by the parties or we each got two, in other words, the pick two lottery. The plaintiffs picked two, and we picked two.

I don't recall Ms. Cabraser was directly involved. I

believe it was one of her colleagues. They had some advantages, both from a numeric perspective and geographic perspective that more appropriately canvassed the differences in the law.

I'd like to reflect upon it. I understand the Court's direction. We will have this discussion. I know that we do not think one is appropriate. Two, three, or four -- we'll get together with the plaintiffs and see if we can agree. If not, then we'll brief it for the Court's consideration.

THE COURT: Great. Sounds good. Let me leave it to you to try and hammer all this out. In terms of a schedule, I'm not prepared, for any number of reasons, to actually go through each and every one of the dates.

I'd be inclined to leave that to you to try and hammer out with the one statement from me that I'm more in agreement with the plaintiffs' proposal than I am with New GM's in terms of how to proceed with the actual schedule which I think gets things done more quickly than New GM, but it may be that having resolved the big-picture issue, you guys can reach some agreement, even if it means modifying the plaintiffs' proposal here and there.

So why don't I leave it to you in the first instance and see if you can agree on a schedule that fits with the overall structure that I have proposed, and we'll take it from there.

How long do you want to confer and submit something to me? Would two weeks be sufficient?

MR. BERMAN: Two weeks would be sufficient from our perspective.

MR. GODFREY: Yes, your Honor.

THE COURT: So I'll give you two weeks from today to submit something, either agreed upon -- and if not agreed upon, then in the normal course with competing letter briefs. That exhausts that issue.

The last issue is the status of bellwether trial number 9. I like that you guys keep the numbers. It makes my colleagues think I'm trying many more cases than I am.

Is there anything to discuss on this front? I have a couple minor sort of administrative things that I would propose based on lessons learned from the last trials. I'm also open to hearing if you guys think there are any ways that we could proceed differently that would help you and make things run more smoothly. I think the last trial actually ran pretty smoothly, all things considered.

Let me first just ask: Is there anything sort of substantive to discuss or any issues on that front?

Is Susman Godfrey trial counsel for plaintiff on that case?

MR. HILLIARD: Co-trial counsel. My law firm is going to co-try it with them. So they will be here at probably the

status conferences involving the Doddson trial, but we'll be co-lead counsel on that.

THE COURT: Good. I was beginning to miss you, Mr. Hilliard. I'm glad to hear that.

Anything substantive to discuss, Mr. Brock? Mr. Hilliard?

MR. BROCK: The case is proceeding to trial in the way we would expect. I don't think we have anything to discuss.

MR. HILLIARD: In discussing the last couple of trials, specifically, the last one, and then reflecting on the others, it seems that the streamlinedness is working, and the amount of time that we think we need versus the amount of time that we need is less.

Perhaps both sides have the courage now to say, we only need a week and we can get it done in a week instead of extending the proposed time. It helps with the jury panel, as well as helps with the preparation of experts.

THE COURT: Yes. I think that was all true. I would say to the amount of time you think you need and the amount of time you actually need, I would actually add a third category, which is the amount of time I'm going to give you.

MR. HILLIARD: That should probably be category one.

THE COURT: I can't remember if you were here or if it was folks from Weitz & Luxenberg. I think that the first couple trials, with all due respect, were somewhat overtried.

I understand why that might have been the case and how much is at stake in each of these cases. I do think in the last one we were sort of approaching a better equilibrium in terms of paring it down and remembering that it's about an individual accident. So I would urge you to continue with that, and I will do my part as well when the time comes.

A couple things that I wanted to note just in advance and would invite you guys to also discuss with each other and among yourselves, if there are ways to tweak the procedures that we have been using, that would be helpful or make things more efficient from your perspective. That is to say, any lessons learned from the last trial or two, if you have any thoughts on that, feel free to propose them to me. I'm certainly open to changing the way we do things.

A couple things on that front. One is I don't know to what extent you guys have conferred in advance of the motion in limine deadlines about motions in limine, but I get the sense that more discussion might be beneficial, that is to say, that in each trial I think there have been motions that have essentially been mooted because they're not really disputed or the disagreements turned out to be a lot narrower than the opening brief seems to think.

I would think that you might save yourselves some trouble and ultimately me some trouble in what I have to ultimately read if you could kind of discuss that ahead of time

and figure out more precisely what you actually do need to brief as opposed to what might be agreed upon.

Second, with respect to deposition designation disputes, it would be helpful, when you file the sort of omnibus letter and transcripts and so forth -- I think in the past ones you have not identified which party is calling which witness, and I think I mentioned in the last trial that I was trying to get ahead of things and ended up reviewing, during the plaintiffs' case, some witnesses that were actually GM witnesses, and, therefore, I ended up needing to do that anyway, but it would just be helpful in terms of me triaging and knowing what I need to prioritize.

Third, because I think your resources exceed my resources on this front, I would like one or the other of you -- I would propose New GM -- to take on the task of copying the jury questionnaires when we have a copy of the final version of them and provide them to the jury department to distribute to the jury pool. Is that acceptable?

MR. BROCK: Yes, your Honor.

THE COURT: That's it from me on this, but I would invite you to discuss among yourselves if you think there is anything that I can do or should be doing differently that would be helpful and make things run more smoothly.

The next item is the trial setting for bellwether number 11. I have to say I'm a little puzzled because I

understand that May 7 was a date that I came up with on my own, in part, quite frankly, to protect my summer.

I looked back at your proposal on this front, which is docket number 4298, and you guys had initially proposed June 25 as a trial date. So I don't know why all of a sudden you're not available until August, and part of what is animating my asking that is, quite candidly, I can't try this case in August for any number of reasons.

A, it would be hard to find a jury. B, my own schedule doesn't really permit it. And then complicating matters further, September really isn't an available option either.

There are pretty much two days every week in September that I would be off for Jewish holidays, and many jurors would also be unavailable anyway, all of which is to say that if we don't try it before I would say July or before, we're really looking at an October trial date at the earliest, and that doesn't strike me as ideal.

So I guess I wanted to get a sense of A, what's changed; and B, what the conflicts are. You guys have a pretty large number of lawyers working on these things. I understand if one or the other person has a conflict. I get it. There is a lot of time between now and then, and other people can fill in. So what's going on?

MR. BROCK: Your Honor, the trial conflict -- this is

Mike Brock for GM.

The trial conflict is mine. I have a case scheduled for trial in Washington, D.C. on April 30. It's expected to be a three- to four-week trial. I am available to try a case in this court I really feel like June 11 or later. The last case I tried here I tried with a two-week break from a four-week trial out in Kansas. I feel like that's something that I can do and can be available to do.

We did look at earlier dates. We didn't know if your Honor would have availability, say, in late March. Allan Pixton and I and others on our team tried to see if we could work out a schedule that might work for March. It just looked like it would be very difficult to do, even if your Honor had a date in March. As it turns out, Mr. Hilliard had a trial conflict I think in April anyway.

So that's the issue we face. I have talked to my client about having another lawyer lead a trial here in the MDL. They have expressed a strong preference that I lead the cases here. So, for better or worse, that's where we are. That's why we were trying to find a way for me to be able to do that.

THE COURT: Mr. Hilliard, I don't know who is trying it for the plaintiffs.

MR. HILLIARD: Unlike Mr. Brock, we have more than one rooster in the henhouse. You pick the date, and we will be

there. There are plenty of executive committee members that would like to step up and try it.

There are the potential of the actual lawyers who represent the plaintiffs that might be available, with assistance, to try it. I would not be available to do it personally. But, again, the Court and the case does fine without me, as we've done twice already.

So whatever date that works for Mr. Brock and the Court, I can represent that I am sure there is a trial team that could be available and come and try it, given the Court's comments that started this discussion.

THE COURT: So give me one moment to figure out a couple things on my end.

How is June 18, 2018?

MR. BROCK: Yes for us.

MR. HILLIARD: Yes, sir.

THE COURT: June 11 would be challenging on my end. I think the 18th is better than your original proposal of the 25th because it's less risk that we would run into the July 4 holiday. So we'll do that.

Why don't you guys look back at the schedule. The schedule was obviously predicated on a trial date of May 7. Obviously the more time I have to do what I need to do, the better.

Recognizing that we're now a month plus later, if you

want to give yourselves a little more time on some of the things, that's fine with me. If you have any proposed modifications, why don't you talk about them to each other, and we'll go from there.

Next is supplemental briefing on successor liability. Sorry to give you more briefing. I'm sorry to give myself more briefs to read. As you can see, I thought it was appropriate for a couple reasons.

Without intimating whether I agree with the plaintiffs' characterization of New GM's proposal as a fishing tactic or not, I am inclined to agree with plaintiffs that it's unnecessary to proceed in the manner that GM has proposed and likely only to result in more delay, given the arguments made by GM thus far, and they're summarized a bit in the agenda letter but the portion attributable to the plaintiffs, but certainly the arguments that have been made to me thus far.

I don't quite understand why we would need to proceed in that manner and why GM couldn't make the arguments that it thinks are to be made based on the information that it currently has.

I think it would make more sense to stick with the current plan, which is simultaneous briefing by August 24 with the understanding, perhaps, or the caveat that New GM or the plaintiffs, for that matter, could always seek leave to file a supplemental brief, that is, supplemental supplemental brief.

If there is something in the declarations that are filed in the first instance that changes the situation in some material way, I think that enables us to stick with the current schedule but allows GM, if it learns something from the factual declarations that are filed that it changes things in some meaningful way, it gives New GM an opportunity to tell me what that is. I would think that that would be a better way to proceed. That's what I would propose.

Thoughts. No thoughts?

MR. GODFREY: I have thoughts. I thought Mr. Berman was going to say something.

THE COURT: It looks like he is.

MR. BERMAN: I am. On Wednesday we informed General Motors that we plan on presenting papers in the bankruptcy court next week, perhaps as early as Tuesday, that would ask the bankruptcy court to issue a claims estimation order pursuant to the sale agreement.

And under the sale agreement, your Honor, the Guc Trust has the authority to go to the bankruptcy court and to compromise claims. In the event the Guc Trust makes a determination that claims exceed $35,000,000, to ask the Court to issue an estimation order that would require New GM to issue stock that would be put into an account for the benefit of, actually, our class.

And pursuant to that estimation order, we're going to

ask the bankruptcy court to issue that order which would require GM to put up stock that's worth roughly a little over $1,000,000,000.

THE COURT: Correct me if my understanding of this is wrong. I take it this is the so-called "accordion feature"; that essentially the estimation order would trigger the accordion feature?

MR. BERMAN: That's correct.

THE COURT: This might be what Mr. Godfrey was fearing would be the --

MR. BERMAN: Yes. We gave GM a heads-up, as I said, this week. I don't think that this changes your briefing idea because the fact of the matter is that you recognize the positions New GM has taken with respect to successor liability. We're not going to have a resolution of this proposed settlement. I suspect that GM is not going to just quietly agree to issue $1,000,000,000 worth of stock.

THE COURT: I'm pretty confident in sharing that prediction.

MR. BERMAN: I'm also pretty confident that the sale agreement actually gives GM no rights to object, but we'll fight that out.

THE COURT: I intimate no view on that.

MR. BERMAN: So I think that we should continue with the briefing, but I wanted to give the Court a heads-up that

there will be some new facts on the table next week.

THE COURT: I appreciate that heads-up. I think, if anything -- I understand from the grumpy looks at the back table that you're not happy about the accordion feature issues here. Those are not my concern, at least in the first instance.

I think to the extent that these implicate me, that suggests to me that you'll have the information before the deadline that I've imposed, and we can just proceed as I had already planned.

Any reason otherwise, with the caveat, I suppose, Mr. Godfrey and Mr. Bloomer, that if upon seeing what plaintiffs file on Tuesday, you need additional time to sort through what it all means, that you can always seek a reasonable extension, and I would consider it. Obviously the sooner we can get briefing, the better, as far as I'm concerned.

Your thoughts. I don't want to hear your thoughts on the accordion feature issue. You'll have plenty of opportunity, I'm sure, to air those, whether you have any right to or not. I'm sure you'll make those arguments but not to me, at least in the first instance.

Any issues with what I have said on the successor liability issues before me?

MR. GODFREY: Well, both issues are going to be before

your Honor. Let me address the first issue, which is the successor liability briefing.

I think, in light of what your Honor has said with respect to the option of having supplemental briefing if we deem it necessary, then that is acceptable to New GM.

With respect to the second issue though, I have some points that your Honor -- this is a marker. This is not going to be in the bankruptcy court.

At my age, I'm seldom surprised, and I'm never shocked. But a day and a half ago, I was both surprised and shocked when we were given a bare-bones description of this settlement agreement.

This is not a compromise by the Guc Trust or the plaintiffs' claims in the bankruptcy court. This is a complete surrender and sellout using GM's money to pay for a settlement that was not defended against, claims that were meritless that were asserted.

Let me express, in no uncertain terms, how we view the proposal.

THE COURT: Let me stop you, only because I want to get out of here as I suggested. I don't mean to cut you off and not give you an opportunity to be heard on this, but I don't think this is the time or place to do it.

You'll have plenty of opportunity in the first instance, I would think in front of the bankruptcy court,

even if it's ultimately an issue that I'll need to resolve or even some higher court.

Am I wrong about that?

MR. GODFREY: Yes. We are going to file a motion to withdraw as soon as permissible, withdraw the reference from the bankruptcy court and this court.

The notion that they can settle for no material money from the Guc Trust -- the Guc Trust has $400,000,000 in assets. They're getting $15,000,000, as we understand it, assigning rights, agreeing to a $10,000,000,000 claim. And supposedly GM has no rights when they take a billion dollars of our money.

That is not going to stand. We're going to withdraw the reference. We're going to bring it to the Court. This is collusive. There are cases on point that we can refer the Court to.

This has got all the indicia of a collusive settlement. They are awaiting a time-barred defense. We have no idea upon what basis and what expert the Guc Trust had, which I doubt, by which they are not contesting $10,000,000,000 in claims.

And that is the trigger mechanism by which they claim New GM has no choice but putting up a billion dollars. That is not going to happen without this Court hearing and ruling on the issues.

We have unfairness issues. We have the indicia of

collusive issues. We have the fact that General Motors has been excluded. And you heard this morning that supposedly we have no rights to even object. I don't think that in our country when someone is told to give a billion dollars to someone else, we have some rights to object, including notice and opportunity to be heard.

So, from a marker perspective, we're going to file a motion. We're going to brief the motion. We're going to attack the settlement, and it's going to be before your Honor. We're going to do it as soon as we can permissibly do it.

THE COURT: The marker is laid. I'll look for the motion. The question is your arguments seem to me to be more geared towards the merits of the issue than the forum in which it should be litigated, at least in the first instance.

In proposing that the reference be withdrawn may be the fact that it's a collusive agreement, if it is -- I intimate no view on the matter -- is a factor to consider in that analysis.

The question that occurs to me, thinking out loud, is why you can't make those arguments to the bankruptcy court in the first instance, recognizing that they may ultimately come to me.

MR. GODFREY: That's a good question. Since your Honor said I should keep this short, but there is an answer to that.

THE COURT: I trust the answer will be clear from your motion.

MR. GODFREY: It will be very clear, but we can talk about this further in the motion. One simple point for your Honor to consider. This is on behalf of a putative class, among other things.

Your Honor has got the class before the court. This Court is going to decide Rule 23 issues, not the bankruptcy court and not some quasi class which has the same implications.

This has come up before in other cases where the court has said, no. That's the MDL's court's purview we think. So there is significant overlap between the issues, both in terms of the merits of the claims and the class issues and in terms of notice issues that this Court has the jurisdiction over and that this Court should have the primary role over.

So we will lay this out for the Court, but make no mistake. General Motors objects to this. We believe that it's brought an indicia of collusiveness. Frankly, what the few facts we were told are, they've got $400,000,000 in assets from the Guc Trust for $15,000,000.

They are released from all liability for this alleged $10,000,000 claim, and General Motors is supposed to put up a billion dollars to make it all right. General Motors has been excluded from the settlement negotiations and had no knowledge of the terms of the settlement negotiations.

If you look at the terms of the accordion feature, we don't believe that they can do this.

THE COURT: Understood. I will look for it. If you want to discuss with each other a briefing schedule for that motion, you're certainly welcome to, and you can propose it to me.

In the absence of that, it sounds like GM is planning to file the motion at some point soon regardless. Unless and until I see otherwise, the local rules and default schedule will apply.

As for the successor liability briefing, we'll stick with the existing plan with the understanding that if there is need for supplemental supplemental briefing, that is to say, another round, then you'll let me know.

I want to say two notes on that. That is not to give you an opportunity to reply. I am contemplating simultaneous briefing. So I would grant an additional round of briefs only if there is something new learned from the submissions on that date that changes things in some material fashion that you think you need to address. It's not an opportunity to reply to the other side's arguments.

The second is that I'm not going to set a deadline right now for that additional briefing or page limits for that matter because I'm hoping and assuming that it won't be necessary.

I do caution you that you're not going to have a lot of time and you're not going to have a lot of pages. If you do propose another set of briefs, keep both of those in mind.

MR. GODFREY: I think we understood that, your Honor. At this point, I think we understand your views on supplemental briefing.

THE COURT: Good.

Let me also just say on the briefs that you will be filing in the next couple weeks on this front, I would endeavor to make them, as much as you can, sort of standalone briefs, that is to say, on the one hand, you don't need to waste time on the preliminaries, the background, etc.

I know what the issues are. I have obviously addressed a lot of the issues in the opinion that I handed down a week or so. You can cut to the chase and brief the issues under that law, as I indicated, and address the effects, if any, of the settlement with the Guc Trust.

Having said that, to the extent you can write it so that my clerks and I don't need to keep looking back at the prior set of briefs, that would be helpful for two reasons.

One is, as I'm going to tell you in a minute or two, today is Ms. Kumar's last day with me. Actually, last Friday was. She's actually just done me the courtesy of coming to this to make things easier in transitioning.

She helped me on that motion and won't be around when

your supplemental briefs come in, which is to say that I'll have another clerk without the same institutional memory and background on this helping me.

The second is while I certainly have read all the materials, it will be several months basically since I have done so. The less that I have to go back and reread things, the better. I would just ask you to keep those in mind in terms of how you write those briefs.

MR. GODFREY: Your Honor, I have a question on that. Would it be helpful for us, if we are referring back to another brief, to just attach as an exhibit the selected pages from that brief?

THE COURT: Yes. I think that would be helpful actually.

MR. GODFREY: I think we'll do that, if that's acceptable to the Court.

THE COURT: I think that is. Otherwise, leave my remarks standing. I gave you my guidance, but that would be helpful, if you think it's necessary.

MR. GODFREY: Thank you.

THE COURT: Settlement.

Mr. Berman, did you have something else you wanted to add?

MR. BERMAN: Yes. We've been silent at the front table with respect to Mr. Godfrey's comments.

THE COURT: I understand. Certainly you'll have an opportunity to be heard.

MR. BERMAN: That's all I need to say.

THE COURT: Understood. Good.

On the issue of settlement, I received the first monthly inventory of cases, which is very helpful and will be helpful going forward.

On the question of the appointment of a mediator, I'm happy to hear from both sides on that front. I am of the view that we are getting to the point where having somebody in place who could be helpful certainly on the economic loss side but perhaps even on the personal injury/wrongful death side, recognizing that Judge Cott only has a limited amount of time available on his calendar, that would probably make sense.

I'm open to suggestions on that. I'm open to suggestions on who that person could be. I think in our closed session last time, I threw out a couple names that I was thinking of.

I know from looking at an order that Judge Selna entered in the Toyota matter, which I also wanted to mention -- I gather that Patrick Juneau was appointed to him to serve as a sort of mediator capacity in that litigation.

I don't know Mr. Juneau or what the experience was like, but I mention his name as a possibility. So I'm open to your thoughts and suggestions here, both in terms of timing and

in terms of moving things forward.

The only other thing I wanted to throw out is I referred to an order of Judge Selna that he issued, and I read an order that established an "intensive settlement" process or protocol.

I guess the question I have -- and this applies to personal injury/wrongful death as much as anything -- whether it might make sense now or sometime down the road to enter an order along those lines.

I think thus far I've left this largely to you guys, and I think it's largely been okay thus far. I guess I'm just throwing that out there as another possibility.

Mr. Berman, it looks like you want to say something.

MR. BERMAN: Yes, your Honor. You mentioned earlier that you assumed settlement discussions were ongoing. There have been no settlement discussions since we made a demand on GM.

We don't think settlement discussions are likely to get started, unless a mediator gets the parties together. We don't think we should wait for the benefit of the bargain briefing for several reasons. A decision is three or four months off at the earliest.

Second, it's my experience and Ms. Cabraser's experience that so-called "important rulings" might make the case harder to settle. If GM loses that, which we think they

will, then the price of settlement goes up. What that typically forces a defendant to do is to look for the next big ruling to get them out of the hard spot they're in.

So we think that you should appoint a settlement mediator. That mediator can then reach out and decide what the appropriate steps are. We think we should either agree or submit names within a week.

This is not a complicated thing, to come up with a potential mediator, and we've been raising this repeatedly, and we've suggested a couple names to GM.

Ms. Cabraser and I were talking about this, and we can't come up with an MDL that we've been involved in -- between of two of us it's been an embarrassing number of MDLs -- where we didn't have a mediator appointed at this stage of the case. So I think now is the time, and I think Ms. Cabraser wanted to talk about the intensive.

MS. CABRASER: Yes. Thank you, your Honor.

I do agree with Mr. Berman that the time is now. The procedure need not be a complicated one. The parties should be directed to meet and confer and either agree on a name or submit names.

There is a very small universe of people who have the experience and confidence of both sides. You mentioned one name that might be a possibility. I don't think it will be a problem, either agreeing on a name, if the parties are directed

to do that.

With respect to the intensive settlement program from Toyota, your Honor, you're right. That was a program to deal with personal injury and wrongful death claims. The economic claims were settled through a class action settlement. Mr. Juneau was the mediator for that process.

The intensive settlement program has been -- it's taken some time, but it has been successful. There are a literal handful of personal injury cases left in that MDL to be resolved. Everything else is resolved.

It's not that different from the private ordering that has gone on so far in GM for the injury claims. What's different is that everyone in the MDL or in the state court cases has an opportunity to use the same procedure.

There is a protocol. It's streamlined. There is the assistance of a settlement master if required, but the experience has been that most of the claims settled in private discussions between counsel for those plaintiffs and a settlement counsel for Toyota.

We make reports -- we still do -- every month or so to Judge Selna in writing and at a status conference, and that's really provided the engine to resolve all of those claims. I think at this point there is one case that is headed to trial, an individual case. The rest are resolved.

THE COURT: I'll tell you what. In the interest of

time, let's table that until the next status conference, and you guys can confer on it between now and then and essentially tell me if there are any additional procedures, protocols, processes, whatever word you want to use, that you think would facilitate and help in the ongoing discussions that I know are going on on the personal injury/wrongful death side, particularly recognizing that we're going to be getting at some point to a stage where New GM has to deal with lawyers who have only one or a handful of cases as opposed to larger groups of cases. So, for now, let's just discuss the mediator issue. Let me hear from Mr. Godfrey or Mr. Bloomer.

I am inclined to agree with Mr. Berman and Ms. Cabraser and think that the time is ripe and we ought to name someone and get that ball rolling, and that person can sort of, you know, facilitate discussions and do what is appropriate and what have you. I'm inclined to think that the time has come.

What are your thoughts on giving me a name or names by let's say a week from now? Hopefully you can agree. If you can't, I can pick someone from a short list that you guys can agree upon.

MR. GODFREY: I think the Court knows what our position is. I'm happy to provide Mr. Berman and Ms. Cabraser a long list of MDLs where no mediator has been appointed at this stage.

THE COURT: I'm not interested in that.

MR. GODFREY: I think we're beyond that, given the Court's comments. So I think we will come up with a recommended procedure list. It's a relatively small pool. Some people are, frankly, disqualified for being in that pool for various reasons.

Mr. Feinberg would be one. The name you mentioned would be another for various reasons. So I think we will have a conversation with them and see whether we can come up with an agreed procedure. And, if not, then I think we submit competing short briefs. This is not very complicated. We are not in favor of an intensive settlement program. Part of the issue here, frankly --

THE COURT: Let's table that for the next conference.

MR. GODFREY: I wasn't sure what was tabled and what was not, given the Court's question to me.

THE COURT: Let's just focus on the mediator. Can you get back to me within a week, either with an agreed-upon person or, if you can't, submit competing proposals or what have you on that date or at least a proposal of how we should proceed? Is that reasonable?

MR. GODFREY: I would prefer if we could have until the following Monday.

THE COURT: That's fine.

MR. GODFREY: That's ten days or something I think, if

that's agreeable.

THE COURT: That seems fine by me.

I think that's August 21, if I'm not mistaken, Mr. Berman.

MR. BERMAN: That's fine, your Honor.

THE COURT: So August 21 I'll hear from you in some form or fashion. Obviously, the more you can agree upon, the better. I don't think this would warrant full-blown briefing is my inclination.

MR. GODFREY: No. I think this is a one- or two-pager, frankly, where we would either have agreement or, here are the names that we propose. There are the names that they propose, and here is the procedure that we propose and that they propose, and the Court should decide from the list.

THE COURT: That sounds good in the abstract, but I'll leave it to you to try and discuss.

Mr. Hilliard.

MR. HILLIARD: This mediator is expected to also potentially address the injury and death cases? Is that what the Court indicated?

THE COURT: I think the focus should be on economic loss, in part because things have been proceeding at pace on the personal injury and wrongful death side. I guess I'm open to your thoughts on that question. I think, in the ideal world, having somebody who could assist on those but with the

primary focus being on the economic loss front would be helpful.

MR. HILLIARD: I'm not sure that we need it yet as we're still talking and have not hit a loggerhead with regard to the injury and death cases, as the entire docket seems to be shrinking.

Mr. Berman and Ms. Cabraser just whispered that it was four economic losses, which is just fine with me, but there will be a point I think that there will be one-off cases that will need to be addressed through some sort of process, primarily not the focus of whatever mediator is appointed, but should that mediator be directed to focus on these cases, then maybe I'll have some input on who is selected.

THE COURT: I think it would be nice to leave the door open. I'm inclined to agree that right now it seems less necessary on that front, if only because things have been proceeding relatively smoothly, and Judge Cott has some time available certainly if there are one-off issues here or there.

I think the ideal would be if we name someone down the road if the time comes when it would be helpful if that person could be available for that purpose, and I can't think of reasons why such a person would be precluded or conflicted from doing it.

In any event, why don't you guys talk about that and see if that makes sense or if there is something I'm not

thinking of.

MR. BROCK: I know we're in a hurry, but I was just going to mention that Mr. Kyle Dreyer, who you met at the first trial -- he was my trial partner in that case, as well as Wendy Bloom -- are working close to full time on settlement issues.

They are continuing to examine documents and dockets. They are meeting with plaintiffs' counsel. There have been a few occasions where we thought a mediator might be beneficial, and we actually would agree with an opposing party to have one come in and actually mediate a docket.

I will talk to them about this, but I think that they feel that the process is working pretty well in terms of what's happening now.

THE COURT: That's my sense as well. It may also be that if there are one-off cases where a mediation would be helpful, but it wouldn't be hard to find someone just to step in and be a mediator for that.

Let's take up the intensive settlement protocol-type issues and whether there is anything else that can be done on the personal injury/wrongful death side at the next conference. Maybe Ms. Bloom should be here on that front, but I'll leave it to you.

On the other issues that I flagged, given the time, unless you think there is any urgency to it, I would propose that we table the discussion of the 349 plaintiffs who have

asserted ignition-switch-related claims and non-ignition switch recall claims for the next conference. I think that may be something that Ms. Bloom could also be helpful with respect to anyway.

For that matter, I don't think there is any urgency to the question posed about the Anglin case, whether there are any other cases out there like that. You could also let me know also in a brief letter.

I just wanted to figure out if there was a need for some sort of procedure to either identify or give notice to or some such thing. I don't know if there are a bunch of those cases out there or if I was going to get motions of that sort in other cases.

So let's just figure out when we're next reconvening, and then we will wrap things up.

Any thoughts, given all the things going on, of when it would be helpful to return?

MR. GODFREY: We had had a discussion pursuant to the Court's request, that is, Mr. Berman, Ms. Cabraser, and myself. I think we settled on the first week of October time period.

MS. CABRASER: That would work timing-wise I think for plaintiffs, except for Tuesday, October 3, and Friday, October 6, which leaves essentially the Wednesday and Thursday of that week.

THE COURT: The Thursday is a Jewish holiday. So it's

out for me.

MS. CABRASER: That is correct.

THE COURT: I could do Wednesday, October 4. Does that work for everybody?

MR. GODFREY: That does, your Honor. Thank you.

THE COURT: So we will set it for Wednesday, October 4. The normal starting time of 9:30 should work for me. So Wednesday October 4 at 9:30.

The last thing I want to say -- I referred to this earlier -- is that this is Ms. Kumar's last day helping me out on this case. Number one, I wanted you to know that so you could take an opportunity after the conference to say your good-byes and thank her for all the work she has done because she has done a tremendous amount to benefit you all.

I just want to say publicly, as I did on similar occasions in the past, and thank her for all the work she has done. This is a tall order, as you can imagine, in my chambers.

She has really done an incredible job of making sure the case remains on the rails for the most part and that I'm doing as good a job as I can do. Whether you all agree that I am doing a good job is not something I'll ask you, but I just want to thank her for everything she has done to help. It's been a tremendous asset to me, and I will miss her, and we will deal with the transition.

I also wanted to take a moment to introduce -- I have a clerk who will be starting in September who, for reasons within chambers, is going to be taking over the GM docket, if you will, Kristen Loveland, who just arrived from Europe last night but who has agreed to be here this morning to sit through this and transition with Ms. Kumar.

In the meantime, Sam Adelsberg, who is also here and is currently in my chambers, is going to be attending to the docket between now and when Ms. Loveland starts. So you can introduce yourselves to her and him.

And Ms. Kumar will be sending an email to everyone to just make sure you have the relevant contact information, but I wanted to mainly thank her publicly and commend her publicly for everything she has done to help.

With that, I wish you all a pleasant rest of your summers. I will see you in early October. I'll be hearing from you in various ways between now and then. We are adjourned. Thank you and have a good day.

MR. GODFREY: Thank you, your Honor.

MS. CABRASER: Thank you, Your Honor.

(Adjourned)